



May 19, 2004

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PUBLIC SERVICE  
COMMISSION

**VIA HAND DELIVERY**

Kentucky Public Service Commission  
Attn: Mr. Jeff Cline  
211 Sower Blvd.  
P.O. Box 615  
Frankfort, KY 40602-0615

RE: Application to Construct Wireless Communications Facility  
Location: 1365 Winston Road, Irvine, Kentucky 40336  
Applicant: BellSouth Personal Communications, LLC and BellSouth  
Mobility, LLC, d/b/a Cingular Wireless – Kentucky

Dear Jeff:

On behalf of my client I am submitting the enclosed original and four (4) copies of an Application for Certificate of Public Convenience and Necessity for Construction of a Wireless Communications Facility in an area of Estill County outside the jurisdiction of a planning commission. I have also enclosed two (2) additional copies of this cover letter. Thank you for your assistance and do not hesitate to contact me if you have any comments or questions concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Pike".

David A. Pike  
Attorney for BellSouth Personal  
Communications, LLC and BellSouth Mobility,  
LLC, d/b/a Cingular Wireless – Kentucky

Enclosures



**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

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**PUBLIC SERVICE  
COMMISSION**

In the Matter of:

THE APPLICATION OF BELLSOUTH PERSONAL )  
COMMUNICATIONS, LLC AND )  
BELLSOUTH MOBILITY, LLC, )  
D/B/A CINGULAR WIRELESS - KENTUCKY )  
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY TO CONSTRUCT )  
A WIRELESS COMMUNICATIONS FACILITY AT )  
1365 WINSTON ROAD, IRVINE, KY 40336 )  
IN THE WIRELESS COMMUNICATIONS LICENSE AREA )  
IN THE COMMONWEALTH OF KENTUCKY )  
IN THE COUNTY OF ESTILL )

CASE NO.: 2004-00186

SITE NAME: WINSTON

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**APPLICATION FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
FOR CONSTRUCTION OF A WIRELESS COMMUNICATIONS FACILITY**

BellSouth Personal Communications, LLC and BellSouth Mobility, LLC, d/b/a Cingular Wireless – Kentucky (hereinafter referred to collectively as “Applicant”), by counsel, pursuant to (i) KRS §§ 278.020, 278.040, 278.665 and the rules and regulations applicable thereto, and (ii) the Telecommunications Act of 1996, respectfully submits this Application requesting issuance of a Certificate of Public Convenience and Necessity (“CPCN”) from the Kentucky Public Service Commission (“PSC”) to construct, maintain, and operate a Wireless Communications Facility (“WCF”) to serve the customers of the Applicant with wireless telecommunications services.

In support of this Application, Applicant respectfully provides and states the following information:

1. The complete name and address of the Applicant:

BellSouth Mobility LLC, d/b/a Cingular Wireless  
The Prentice-Hall Corporation System, Registered Agent  
421 West Main St  
Frankfort, KY 40601  
Attn.: Legal Department

and

BellSouth Personal Communications, LLC  
The Prentice-Hall Corporation System, Registered Agent  
421 West Main St  
Frankfort, KY 40601  
Attn.: Legal Department

2. Applicant proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located in an area outside the jurisdiction of a planning commission, and Applicant submits the within application to the Commission for a certificate of public convenience and necessity pursuant to KRS §§ 278.020(1), 278.650, and 278.665.

3. Applicant entity is not a corporation and, therefore, the requirements of 807 KAR 5:001(8) and 807 KAR 5:001(9) that applicant submit a certified copy of articles of incorporation is inapplicable. Applicant limited liability company has provided a copy of the Certificate of Authority issued by the Secretary of State of the Commonwealth of Kentucky for the applicant entity as part of **Exhibit A**.

4. The proposed WCF will serve an area completely within the Applicant's Federal Communications Commission ("FCC") licensed service area in the Commonwealth of Kentucky. A reference copy of the Applicant's FCC license to provide wireless services is attached to this Application or described as part of **Exhibit A**.

5. The public convenience and necessity require the construction of the proposed WCF. The construction of the WCF will bring or improve the Applicant's services to an area currently not served or not adequately served by the Applicant by increasing coverage or capacity and thereby enhancing the public's access to innovative and competitive wireless telecommunications services. The WCF will provide a necessary link in the Applicant's telecommunications network that is designed to meet the increasing demands for wireless services in Kentucky's wireless communications licensed area. The WCF is an integral link in the Applicant's network design that must be in place to provide adequate coverage to the service area.

6. To address the above-described service needs, Applicant proposes to construct a WCF at 1365 Winston Road, Irvine, Kentucky 40336 (37° 42' 43.37" North latitude, 84° 05' 16.97" West longitude), in an area located entirely within the county referenced in the caption of this application. The property on which the WCF will be located is owned by Joel and Lois Stevenson pursuant to a Deed recorded at Deed Book 164, Page 332 in the office of the Estill County Clerk. The proposed WCF will consist of a 190-foot tall guyed tower, with an approximately 9-foot tall lightning arrestor attached at the top, for a total height of 199 feet. The WCF will also include concrete foundations to accommodate the placement of the Applicant's proprietary radio electronics equipment. The equipment will be housed in a prefabricated cabinet or shelter that will contain: (i) the transmitting and receiving equipment required to connect the WCF with the Applicant's users in Kentucky, (ii) telephone equipment that will link the WCF with the Applicant's other facilities, and (iii) all other necessary appurtenances. The Applicant's equipment cabinet or

shelter will be approved for use in the Commonwealth of Kentucky by the relevant building inspector. The WCF compound will be fenced and all access gate(s) will be secured. A description of the manner in which the proposed WCF will be constructed is attached as **Exhibit B** and **Exhibit C**. Periodic inspections will be performed on the WCF in accordance with the applicable regulations or requirements of the PSC.

7. A list of competing utilities, corporations, or persons is attached as **Exhibit D**, along with three (3) maps of suitable scale showing the location of the proposed new construction as well as the location of any like facilities located anywhere within the map area, along with a map key showing the owner of such other facilities.

8. The site development plan and a vertical profile sketch of the WCF signed and sealed by a professional engineer registered in Kentucky depicting the tower height, as well as a proposed configuration for the antennas of the Applicant and future antenna mounts, has also been included as part of **Exhibit B**. Foundation design plans and a description of the standards according to which the tower was designed, and which have been signed and sealed by a professional engineer registered in Kentucky, are included as part of **Exhibit C**.

9. Applicant has considered the likely effects of the installation of the proposed WCF on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate services can be provided, and that there are no reasonably available opportunities to co-locate Applicant's antennas on an existing structure. Applicant has attempted to co-locate on suitable existing structures such as telecommunications towers or other suitable structures capable of supporting

Applicant's facilities, and no other suitable or available co-location site was found to be located in the vicinity of the site. Information regarding the Applicant's efforts to achieve co-location in the vicinity is presented as **Exhibit E**.

10. No Notice of Proposed Construction or Alteration FAA is required for the proposed construction. Such Notice is only required for structures constructed at a height in excess of 200 feet at the proposed location, and the proposed structure for this site will be 199 feet and does not exceed this threshold height.. A copy a FAR 77 Airspace Obstruction Report prepared by Aviation Systems, Inc. in reference to this site is attached as **Exhibit F** as documentation of the applicable regulatory requirements of the FAA.

11. No Kentucky Airport Zoning Commission ("KAZC") Application is required for the proposed construction. Such Application is only required for structures constructed at a height in excess of 200 feet at the proposed location, and the proposed structure for this site will be 199 feet and does not exceed this threshold height. A copy a FAR 77 Airspace Obstruction Report prepared by Aviation Systems, Inc. in reference to this site is attached as **Exhibit F** as documentation of the applicable regulatory requirements of the KAZC.

12. The WCF will be registered with the FCC pursuant to applicable federal requirements. Appropriate required FCC signage will be posted on the site upon receipt of the tower registration number.

13. A geotechnical engineering firm has performed soil boring(s) and subsequent geotechnical engineering studies at the WCF site. A copy of the geotechnical engineering report and evaluation, signed and sealed by a professional engineer registered in the Commonwealth of Kentucky, is attached as **Exhibit H**. The name and address of the

geotechnical engineering firm and the professional engineer registered in the Commonwealth of Kentucky who supervised the examination of this WCF site are included as part of this exhibit.

14. Clear directions to the proposed WCF site from the County seat are attached as **Exhibit I**. The name and telephone number of the preparer of **Exhibit I** is included as part of this exhibit.

15. Applicant, pursuant to a written agreement, has acquired the right to use the WCF site and associated property rights. A copy of the agreement or an abbreviated agreement recorded with the County Clerk is attached as **Exhibit J**. Also included as part of **Exhibit J** is the portion of the full agreement demonstrating that in the case of abandonment a method is provided to dismantle and remove the cellular antenna tower, including a timetable for removal.

16. Personnel directly responsible for the design and construction of the proposed WCF are well qualified and experienced. Central Tower performed the tower and foundation design. The tower and foundation drawings for the proposed tower submitted as part of **Exhibit C** bear the signature and stamp of Brian K. Thompson, a professional engineer registered in the Commonwealth of Kentucky. All tower designs meet or exceed applicable laws and regulations.

17. The Project Manager and Contractor for the proposed facility is General Dynamics, and the identity and qualifications of each person directly responsible for construction of the proposed tower are contained in the attached letter submitted as part of **Exhibit C**.

18. A registered land surveyor has noted in **Exhibit B** that there are no Flood Insurance Rate Maps (“FIRM”) available for the location on which the proposed WCF will be constructed. Applicants therefore request waiver of this 807 KAR 5:063 §1(1)(d) requirement.

19. The possibility of high winds has been considered in the design of this tower. The tower has been designed and engineered by professional engineers using computer assistance and the same accepted codes and standards as are typically used for high-rise building construction. The tower design is in accordance with ANSI/EIA-222-F standards, for a wind load of 70 m.p.h. basic wind speed with 1/2” radial ice.

20. The site development plan was prepared by Birch, Trautwein & Mims, Inc., and is signed and sealed by Charles E. Weiter, a professional engineer registered in Kentucky. The site survey was performed by John Charles, a Kentucky Licensed Professional Land surveyor. Page C-1 of **Exhibit B** is drawn to a scale of no less than one (1) inch equals 200 feet, and identifies every owner of real estate within 500 feet of the proposed tower (according to the records maintained by the County Property Valuation Administrator). Every structure and every easement within 500 feet of the proposed tower or within 200 feet of the access road including intersection with the public street system is illustrated in **Exhibit B**.

21. Applicant has notified every person who, according to the records of the County Property Valuation Administrator, owns property which is within 500 feet of the proposed tower or contiguous to the site property, by certified mail, return receipt requested, of the proposed construction. Each notified property owner has been given the

docket number under which the proposed Application will be processed and has been informed of their right to request intervention. A list of the nearby property owners who received the notices, together with copies of the certified letters, are attached as **Exhibit K** and **Exhibit L**, respectively.

22. Applicant has notified the Estill County Judge/Executive by certified mail, return receipt requested, of the proposed construction. This notice included the PSC docket number under which the application will be processed and informed the Nicholas County Judge/Executive of his/her right to request intervention. A copy of this notice is attached as **Exhibit M**.

23. Two notice signs meeting the requirements prescribed by 807 KAR 5:063 measuring at least two (2) feet in height and four (4) feet in width with all required language in letters of required height have been posted in a visible location on the proposed site and on the nearest public road. Such signs shall remain posted for at least two (2) weeks after filing of the Application, and a copy of the posted text is attached as **Exhibit N**. Notice of the location of the proposed facility has also been published in a newspaper of general circulation in the county where the WCF is located.

24. The general area where the proposed facility is to be located is rural farmland. There are no residential structures located within a 500-foot radius of the proposed tower location.

25. The process that was used by the Applicant's radio frequency engineers in selecting the site for the proposed WCF was consistent with the general process used for selecting all other existing and proposed WCF facilities within the proposed network design

area. Applicant's radio frequency engineers have conducted studies and tests in order to develop a highly efficient network that is designed to serve the Federal Communications Commission licensed service area. The engineers determined an optimum area for the placement of the proposed facility in terms of elevation and location to provide the best quality service to customers in the service area. A radio frequency design search area prepared in reference to these radio frequency studies was considered by the Applicant when searching for sites for its antennas that would provide the coverage deemed necessary by the Applicant. Before beginning the site acquisition process, Applicant carefully evaluated locations within the search area for co-location opportunities on existing structures, and no suitable towers or other existing tall structures were found in the immediate area that would meet the technical requirements for the element of the telecommunications network to be provided by the proposed facility. A map of the area in which the tower is proposed to be located which is drawn to scale and clearly depicts the necessary search area within which the site should be located pursuant to radio frequency requirements is attached as **Exhibit O**.

26. All Exhibits to this Application are hereby incorporated by reference as if fully set out as part of the Application.

27. All responses and requests associated with this Application may be directed to:

David A. Pike  
Pike Legal Group, PLLC  
1578 Highway 44 East, Suite 6  
P. O. Box 369  
Shepherdsville, KY 40165-0369  
Telephone: (502) 955-4400  
Telefax: (502) 543-4410

**WHEREFORE**, Applicant respectfully request that the PSC accept the foregoing Application for filing, and having met the requirements of KRS §§ 278.020(1), 278.650, and 278.665 and all applicable rules and regulations of the PSC, grant a Certificate of Public Convenience and Necessity to construct and operate the WCF at the location set forth herein.

Respectfully submitted,



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David A. Pike  
Pike Legal Group, PLLC  
1578 Highway 44 East, Suite 6  
P. O. Box 369  
Shepherdsville, KY 40165-0369  
Telephone: (502) 955-4400  
Telefax: (502) 543-4410  
Attorney for BellSouth Personal Communications, LLC  
and  
BellSouth Mobility, LLC,  
d/b/a Cingular Wireless – Kentucky

## LIST OF EXHIBITS

- A - Business Entity and FCC License Documentation
- B - Site Development Plan:
  - 500' Vicinity Map
  - Legal Descriptions
  - Flood Plain Certification
  - Site Plan
  - Vertical Tower Profile
- C - Tower and Foundation Design and Qualifications Statement
- D - Competing Utilities, Corporations, or Persons List and Map of Like Facilities in Vicinity
- E - Co-location Report
- F - Airspace Obstruction Report
- G - Omitted – KAZC Application N/A
- H - Geotechnical Report
- I - Directions to WCF Site
- J - Copy of Real Estate Agreement
- K - Notification Listing
- L - Copy of Property Owner Notification
- M - Copy of County Judge/Executive Notice
- N - Copy of Posted Notices
- O - Copy of Radio Frequency Design Search Area